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CANADA'S INTELLECTUAL PROPERTY AND TECHNOLOGY LAW FIRM

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March 7, 2006

United States Patent and Trademark Office
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia
22313-1450

Attention: Cybille Delacroix-Muirhead

Dear Sirs:

Re: UNITED STATES: Divisional Patent Application 10/761,596
Applicant: Wayne W. Lutt
Title: METHOD FOR TREATING INSULIN RESISTANCE
THROUGH HEPATIC NITRIC OXIDE
Our File: 42472-0028

The Applicant's agents thank the Examiner Cybille Delacroix-Muirhead and her Supervisor Christopher Low for the telephone interviews of January 12, 2006 with the Examiner and February 7, 2006 with the Examiner and her Supervisor. In accordance with the Patent Rules, we hereby provide a summary of the interviews.

In the January 12, 2006 interview, the Examiner took the position that the kit claims were not allowable, because there is no functional connection between the instructions and the drugs claimed. The undersigned agent respectfully disagreed, and argued that there was a functional connection between the written instructions and the drugs claimed. The Examiner indicated that her Supervisor would not sign off on an allowance for such kit claims. As the Examiner and the undersigned agent appeared to be at an impasse, the undersigned agent requested a telephone interview with the Examiner and her Supervisor.

In the interview of February 7, 2006, the Examiner and her Supervisor raised the issue of whether the elements of the kit would be obvious to combine. The undersigned agent argued that they would not be obvious to combine, and indeed this was the point of invention. No one had ever before considered using the pharmaceuticals claimed in conjunction with the instructions claimed, i.e., to ameliorate the symptoms of insulin resistance. The Examiner's Supervisor took the position that the instructions must modify the composition in order for the kit claim to be patentable. The Examiner's Supervisor took the position that the instructions are not an active agent, because they do not act on the compositions claimed. In order to be patentable, the elements of the kit claim must physically interact with each other, and the instructions do not physically

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interact with the drugs claimed. The undersigned agent undertook to review the case law as to whether each element of a kit claim must physically interact, or modify each other and respond in writing.

Again, the undersigned agent thanks the Examiner and her Supervisor for clarifying the point of disagreement.

Yours very truly,

RIDOUT & MAYBEE LLP



David J. Heller
DJH:ls

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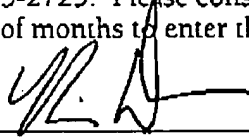
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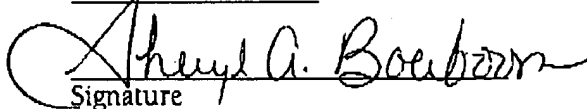
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FROM DAVID HELLERApplicant: LAUTT
Serial No.: 10/761,596
Filed: JANUARY 21, 2004
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I hereby certify that this paper is being transmitted by facsimile to the U.S. Patent and Trademark Office on the date shown below.

Sheryl A. Boerboom
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Date

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